

AGENDA

COMMITTEE ON ACCOUNTS, ENROLLMENT AND REVENUE ADMINISTRATION

October 4, 2005
Aldermen Smith, Guinta,
Osborne, Shea, Thibault

Upon Recess of BMA
Aldermanic Chambers
City Hall (3rd Floor)

1. Chairman Smith calls the meeting to order.
2. The Clerk calls the roll.
3. Chairman Smith advises that Ordinances are to be considered for consistency with the rules of the Board, and required laws, and requests the Clerk to make a presentation relative to the Ordinances:

“Amending Chapter 30: City Officials and Employees of the Code of Ordinances of the City of Manchester by adding §30.49 Office of Independent City Auditor and §30.50 Duties of Independent City Auditor.”

“Amending Sections 36.15 Issuance of Warrant for Collection; Notice to City Auditor and 36.17 Abatement Before Payment of the Code of Ordinances of the City of Manchester by replacing the term City Auditor with the term Independent City Auditor and Finance Officer.”

“Amending Sections 36.16 Records and Reports of Abatements, 36.18 Abatement After Payment, and 36.35 Special Account for Taxes and Assessments of the Code of Ordinances of the City of Manchester by replacing the term City Auditor with the term Finance Officer.”

“Repealing Sections 35.107 (Y, Z, AA, AB and AC) Duties of Finance Officer and 35.018 Audit of the Code of Ordinances of the City of Manchester.”

“Amending Chapter 32, Conservation Commission, Section 32.092 Composition; Terms, of the Code of Ordinances of the City of Manchester.”

“Amending Section 33.025 (Community Health Nurse) of the Code of Ordinances of the City of Manchester.”

“Amending Chapter 70: Motor Vehicles and Traffic of the Code of Ordinances of the City of Manchester by amending Section 70.40 Towing by increasing the towing fees.”

“Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations.”

“Amending Chapter 115: Solicitations, Sales, Peddlers, and Fairs of the Code of Ordinances of the City of Manchester by inserting new definitions and application requirements.”

“Authorizing the Mayor to Dispose of Certain Tax Deeded Property Known as West Haven Road, Map 0922/Lot 0039-A.”

4. Chairman Smith advises that a presentation having been made, if all is in order, a motion is in order to advise that the Ordinances presented are properly enrolled.
5. If there is no further business, a motion is in order to adjourn.

City of Manchester New Hampshire

In the year Two Thousand and Five

AN ORDINANCE

“Amending Chapter 30: City Officials and Employees of the Code of Ordinances of the City of Manchester by adding §30.49 Office of Independent City Auditor and §30.50 Duties of Independent City Auditor.”

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

I. OFFICE OF INDEPENDENT CITY AUDITOR

§30.49 OFFICE ESTABLISHED.

Pursuant to City Charter Section 6.12, the Office of Independent City Auditor is hereby established as a division within the Office of the City Solicitor.

§30.50 DUTIES OF INDEPENDENT CITY AUDITOR.

(A) The position of Independent City Auditor is hereby transferred to the Office of the City Solicitor. It shall report to the Board of Mayor and Aldermen or to such committee as the Board of Mayor and Aldermen may designate.

(B) It shall be the duty of the Independent City Auditor to perform such duties and functions as are set forth in City Charter Section 6.12.

(C) The cost of any audit done by the Independent City Auditor or by any other auditor under his direction or authority of any department funded by any self-sustaining or special fund shall be a charge against the appropriate fund, and said cost shall be transferred from said fund to the general fund.

(D) The Independent City Auditor shall receive the full cooperation of all other city officials and departments. The Finance Officer shall provide assistance to the Independent City Auditor upon request.

(E) In making any audit, investigation, analysis, or research the Independent City Auditor shall have the power to examine whatever accounts or records of or property or things of value held by any department, board, institution, commission or agency that is deemed useful to said audit, investigation, analysis, or research requested by the Board of Mayor and Aldermen. All City departments, boards, institutions, commissions or agencies shall be required to furnish to the Independent City Auditor any information, including confidential information, the Independent City Auditor may request in the course of carrying out his/her duties.

(F) The Independent City Auditor shall be subject to the same restrictions and penalties regarding disclosure of confidential information as the original custodian of the information. Disclosure of confidential information to the Independent City Auditor shall be for the purpose of, and to the extent necessary for, conducting audits, investigations, analysis, or research. If any department, board, institution, commission or agency objects to providing confidential information under the provisions of this section, the entity may apply to the City Solicitor for disapproval of the request. The City Solicitor shall review any confidential information to which the Independent City Auditor has requested access to determine whether or not it is necessary for the Independent City Auditor to examine the information. If it is determined that such information is necessary it shall be provided in a mutually agreeable and compatible format.

II. This Ordinance shall take effect upon its passage.

City of Manchester New Hampshire

In the year Two Thousand and Five

AN ORDINANCE

“Amending Sections 36.15 Issuance of Warrant for Collection; Notice to City Auditor and 36.17 Abatement Before Payment of the Code of Ordinances of the City of Manchester by replacing the term City Auditor with the term Independent City Auditor and Finance Officer.”

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

- I. Amend the Code of Ordinances by deleting language stricken (----) and inserting new language in *italics*. Language in regular type remains the same.

CHAPTER 36: TAXATION

§36.15 ISSUANCE OF WARRANT FOR COLLECTION; NOTICE TO CITY AUDITOR ~~CITY AUDITOR~~ *INDEPENDENT CITY AUDITOR AND FINANCE OFFICER*.

(A) The Board of Assessors shall issue a warrant on the Collector of Taxes for the collection of all taxes and assessments due the city and they shall simultaneously notify the ~~City Auditor~~ *Independent City Auditor and Finance Officer* of all such warrants issued.

(B) The ~~City Auditor~~ *Independent City Auditor and Finance Officer* shall charge the Collector of Taxes on the city's general ledger with the amount of all warrants issued.

§36.17 ABATEMENT BEFORE PAYMENT.

Upon the abatement of any unpaid tax or taxes, the Board of Assessors shall make certificates thereof, and of the amounts so abated, with the reasons therefor, and shall thereupon deliver the certificates to the Collector of Taxes, who has in his hands, for collection, the tax or taxes so abated, and shall report to the ~~City Auditor~~ *Independent City Auditor and Finance Officer* the sum or sums so abated and certified, each month, and these abatements shall be credited to the Collector.

- II. This ordinance shall take effect upon its passage.

City of Manchester New Hampshire

In the year Two Thousand and Five

AN ORDINANCE

“Amending Sections 36.16 Records and Reports of Abatements, 36.18 Abatement After Payment, and 36.35 Special Account for Taxes and Assessments of the Code of Ordinances of the City of Manchester by replacing the term City Auditor with the term Finance Officer.”

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

- I. Amend the Code of Ordinances by deleting language stricken (----) and inserting new language in *italics*. Language in regular type remains the same.

CHAPTER 36: TAXATION

§36.16 RECORDS AND REPORTS OF ABATEMENTS..

The Board of Assessors shall keep a record of all taxes abated and shall issue an annual report of total abatements, by levies. The records shall be kept in such form as to show a separation by levies, of poll, personal and property taxes and both assessments, abatements made before payments, abatements made after payments, and reassessments, and the monthly report of the ~~City Auditor~~ *Finance Officer* shall accurately specify these details.

§36.18 ABATEMENT AFTER PAYMENT.

If any abated tax has been previously paid into the city treasury, a certificate from the Board of Assessors, approved by the Board of Mayor and Aldermen, shall be sufficient authority for the ~~City Auditor~~ *Finance Officer* to draw a warrant on the City Treasurer for the amount so abated to the person in whose favor the certificate shall be drawn. The amount shall be charged to the appropriation for tax refund.

§36.35 SPECIAL ACCOUNT FOR TAXES AND ASSESSMENTS.

The ~~City Auditor~~ *Finance Officer* shall open an account with the Collector of Taxes, wherein the Collector of Taxes shall be charged with the amount of assessments and taxes placed in his hands for collection.

- II. This ordinance shall take effect upon its passage.

City of Manchester New Hampshire

In the year Two Thousand and Five

AN ORDINANCE

“Repealing Sections 35.017 (Y, Z, AA, AB and AC) Duties of Finance Officer and 35.018 Audit of the Code of Ordinances of the City of Manchester.”

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

- I. Amend the Code of Ordinances by repealing the paragraphs and/or sections listed below in their entirety.

CHAPTER 35: FINANCES

§35.017 DUTIES OF FINANCE OFFICER.

(Y) Conduct post-audits of the accounts and records of any city department. The Finance Officer may cooperate with federal officials and agencies in conducting said post-audits.

(Z) Order the audit of the accounts of the City Treasury, at least once each year, by a certified public accountant, selected pursuant to the provisions of the Procurement Code, and designated by the Finance Officer.

(AA) Provide a copy of final draft audit reports to respective department heads and commissions for their review and comment prior to submission to the Board of Mayor and Aldermen.

(AB) Submit a detailed report of every audit conducted pursuant to this section to the Board of Mayor and Aldermen for its approval. After acceptance by the Board of Mayor and Aldermen, a copy of the report shall be given to the Executive Officer of the department concerned. The Executive Officer shall submit a written statement explaining or rebutting the findings of the report to the Board of Mayor and Aldermen.

(AC) Conduct such program result audits of any department as the Board of Mayor and Aldermen shall specifically direct. Program result audits shall be conducted in accordance with governmental auditing standards as promulgated by the Comptroller General of the United States and shall include, but not be limited to, examinations and any determinations based upon the examinations as to whether the results contemplated by the Board of Mayor and Aldermen have been and are being achieved by the department concerned, and whether such objectives could be obtained more effectively through other means. The Board of Mayor and Aldermen shall, at least every ten years, consider the necessity of the review, pursuant to this section, of each city department.

City of Manchester
New Hampshire

In the year Two Thousand and Five

AN ORDINANCE

“Repealing Sections 35.017 (Y, Z, AA, AB and AC) Duties of Finance Officer and 35.018 Audit of the Code of Ordinances of the City of Manchester.”

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

§35.018 AUDITS.

The cost of any audit done by the Finance Officer or by an other auditor under his direction or authority of any department funded by an self-sustaining or special fund shall be a charge against the appropriate fund, and said cost shall be transferred from said fund to the general fund.

II. This ordinance shall take effect upon its passage.

City of Manchester
New Hampshire

In the year Two Thousand and Five

AN ORDINANCE

“Amending Chapter 32, Conservation Commission, Section 32.092 Composition; Terms, of the Code of Ordinances of the City of Manchester.”

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

- I. Amend Section 32.092 of the Code of Ordinances by inserting new language as bolded (**bold**). Language of Section 32.092 not struck through or bolded remains unchanged.

§32.092 COMPOSITION; TERMS.

The Commission shall consist of seven members, all citizens of the city and all appointed by the Mayor, subject to the approval of the Board of Mayor and Aldermen. **In addition, the Mayor, subject to the approval of the Board of Mayor and Aldermen, may appoint two alternate members to the Commission, who shall be residents of the city and who shall have full voting powers when designated by the Chairperson to act in the place of an absent or disqualified member.** The original Chairperson shall be appointed for a term of three years, three members shall have two-year terms, and three members shall have one-year terms. Appointments of respective successors **and of alternate members, both original and successor,** shall be for three years. The second term Chairperson shall be selected by the members from one of their number. Any member **or alternate member** of the Commission so appointed may, after a public hearing if requested, be removed for cause pursuant to the City Charter. A vacancy occurring otherwise than by expiration of a term shall be filled for the unexpired term in the same manner as the original appointment.

- II. This ordinance shall take effect upon its passage.

City of Manchester
New Hampshire

In the year Two Thousand and

five

AN ORDINANCE

"Amending Section 33.025 (Community Health Nurses) of the Code of Ordinances of the City of Manchester."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

SECTION 33.025 COMPENSATION OF POSITIONS be amended as follows:

Reclassify Community Health Nurses from Grade 17 to Grade 18, Class Code 7070, exempt

This Ordinance shall take effect upon its passage and all Ordinances or parts of Ordinances inconsistent therewith are hereby repealed.

City of Manchester New Hampshire

In the year Two Thousand and Five

AN ORDINANCE

"Amending Chapter 70: Motor Vehicles and Traffic of the Code of Ordinances of the City of Manchester by amending Section 70.40 Towing by increasing the towing fees."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

I. Deletions to existing ordinance language are ~~struck through~~. New language appears in **bold**. Sections of the following chapter that remain unchanged appear in regular type.

§ 70.40 TOWING.

(A) (1) Any company or person which tows a motor vehicle without the consent or authorization of the owner or operator of the motor vehicle shall not charge a towing fee in excess of ~~\$50~~**\$70 during regular business hours. The fee for a tow conducted at a time other than regular business hours shall be \$85. For purposes of this section, "regular business hours" shall mean, at a minimum, the hours from 8:00 a.m. to 5:00 p.m., Monday through Friday, holidays excepted, as well as any other posted business hours. The company or person shall post the business hours of its storage lot and shall disclose such information upon request of the owner or operator of a motor vehicle.**

(2) Any company or person which tows a motor vehicle without the consent or authorization of the owner or operator of the motor vehicle shall not charge a fee in excess of \$25 per day for storing the towed motor vehicle. There shall be no storage fee for the first 24 hours after a motor vehicle is towed.

(B) No company or person shall charge any fee other than a towing fee or storage fee, as provided for in § 70.40 (A), for a motor vehicle which has been towed without the consent or authorization of the owner or operator; except a company or person may charge a service fee of up to \$25 to release a motor vehicle from a storage lot to its owner or operator at a time other than regular business hours. ~~For purposes of this section, "regular business hours" shall mean, at a minimum, the hours from 7:00 a.m. to 5:00 p.m., Monday through Friday, holidays excepted, as well as any other posted business hours. The company or person shall post the business hours of its storage lot and shall disclose such information upon request of the owner or operator of a motor vehicle.~~ In the event a service fee is charged, the company or person shall have the owner or operator sign an acknowledgment upon the release of the motor vehicle. The acknowledgment shall specify the date and time the vehicle was released, the location of the storage lot, and the amount of the service fee charged. No "hoisting", "let-down", "standby" or "gate" fee shall be charged.

(C) Any company or person which has towed a motor vehicle without the consent of the owner or operator shall release to the owner or operator any and all property contained within or on such vehicle, but not attached to the vehicle, upon request by the owner or operator of the vehicle without requiring the payment of any fee therefore including the towing fee and the storage fee provided for in § 70.40 (A).

II. This ordinance shall take effect upon its passage.

City of Manchester New Hampshire

In the year Two Thousand and Two

AN ORDINANCE

“Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations.”

Page 1 of 7

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

- I. Amend the Code of Ordinances by deleting §§ 111.65 through 111.70: Dances; Dance Halls; Assembly in its entirety and inserting new §§ 111.65 through 111.73: Dances; Dance Halls; Assembly. New language to the sections appear in bold (**bold**). Previous language from the sections that remain unchanged appear in regular type.

DANCES; DANCE HALLS; ASSEMBLY

§ 111.65 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

A-WEIGHTED SOUND PRESSURE. The sound pressure level as measured with a sound level meter using the A-weighting network. The standard notation is dB(A) or dBA.

DANCE HALL. Any location, other than a food-service establishment as defined by § 117.01 of this title, which permits or permits to occur, dancing. This definition shall not include a public or private school licensed by the state or the city for the purpose of conducting regular dancing classes or dance courses of study as its regular and recurrent business activity.

DECIBEL. A logarithmic unit of measure often used to measure magnitudes of sound. The symbol is dB.

ENTERTAINMENT PLACE OF ASSEMBLY. A room or space in which provision is made for the occupancy or assembly of 100 or more persons for entertainment purposes. For the purpose of this definition such room or space shall include any occupied connecting rooms, space, or area on the same level or in the same story, or in a story or storied above or below, where entrance is common to the rooms, space, or areas. An entertainment place of assembly shall be classified in either two classifications, Class I or Class II. A Class I entertainment place of assembly shall apply to non-profit organizations that do not receive exemptions pursuant to § 110.08(C) of this Code. Class II entertainment places of assembly shall include all other applicants.

City of Manchester New Hampshire

In the year Two Thousand and Two

AN ORDINANCE

“Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations.”

Page 2 of 7

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

NOISE. Any sound that exceeds the standards set forth in this chapter, annoys or disturbs a reasonable person of normal sensibilities, or causes or tends to cause any adverse psychological or physiological effect on humans.

SOUND. An oscillation in pressure, stress, particle displacement and particle velocity which induces auditory sensation.

SOUND LEVEL METER. An apparatus for the measurement of sound levels. The sound level meter shall be of a design and have the characteristics of a Type 2 or better instrument as established by the American National Standards Institute.

§ 111.66 LICENSE REQUIRED.

(A) No person shall own or operate a dance hall or entertainment place of assembly within the city unless a license shall first be obtained from the City Clerk.

(B) No person shall conduct or allow to be conducted any entertainment or public dancing which is an isolated or occasional event, and which is not part of the regular and recurrent business activity of the owner or operator of the room or space within the city unless a license shall first be obtained from the City Clerk.

(C) (1) Notwithstanding any other licensing ordinance, a duly licensed Class I and Class II restaurant in the city may allow dancing and entertainment upon obtaining an annual restaurant dance and entertainment license from the city.

(2) The application for a restaurant dance and entertainment license shall be made to the City Clerk upon forms to be determined by the City Clerk, the licensee shall be liable for any applicable police officer's fee and the license shall expire annually on April 30.

Penalty, see § 111.99

Cross-reference:

Business license fees, see § 110.20

City of Manchester New Hampshire

In the year Two Thousand and Two

AN ORDINANCE

“Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations.”

Page 3 of 7

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

§ 111.67 POLICE ATTENDANCE AT FUNCTION.

When it is determined after investigation by the Chief of Police to be necessary to preserve order, protect the health, safety, and welfare of the citizens of the city, or to help avoid traffic-related problems, public disturbance, or public nuisance, all establishments required to be licensed under this subchapter shall be required to hire an off-duty police officer or officers during those hours the Chief of Police deems appropriate. The Chief of Police may suspend the requirement after investigation as he deems appropriate, but his requirement may be reinstated following receipt of complaints and investigation by the Chief of Police.

§ 111.68 MINORS TO BE ACCOMPANIED BY PARENT OR GUARDIAN.

Minors under the age of 17 years shall not be admitted to a dance hall unless accompanied by parent or guardian or under the supervision of school authorities.
Penalty, see § 111.99

§ 111.69 RESTRICTED AREAS AT DANCES.

No person attending a public dance shall enter any room designated for the use of the opposite sex.
Penalty, see § 111.99

§ 111.70 CURFEW AT DANCES.

(A) No public dancing shall be permitted between the hours of 2:00 a.m. and 2:00 p.m. on Sunday, 1:00 a.m. and 12:00 p.m. on Monday, or 2:00 a.m. and 12:00 p.m. Tuesday, Wednesday, Thursday, Friday, and Saturday.

(B) No exhibit of natural or artificial curiosities, theatrical performances, or other shows shall be permitted between the hours of 2:00 a.m. and 9:00 a.m. on Sunday, 1:00 a.m. and 9:00 a.m. on Monday, or 2:00 a.m. and 9:00 a.m. Tuesday, Wednesday, Thursday, Friday, and Saturday.
Penalty, see § 111.99

City of Manchester New Hampshire

In the year Two Thousand and Two

AN ORDINANCE

“Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations.”

Page 4 of 7

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

§ 111.71 NOISE ACTIVITIES; PURPOSE.

The purpose of this section is to establish standards that will eliminate and reduce unnecessary noise at outdoor venues throughout the city which may be physically harmful or otherwise detrimental to individuals and the community in the enjoyment of life, property and the conduct of business.

(A) No person shall conduct an event that involves the amplification of sound or speech above sixty (60) dB(A) for the purpose of presenting a musical selection, show, performance or concert at an outdoor venue within the limits of the city of Manchester without obtaining a noise permit issued by the Office of the City Clerk.

(B) The following general guidelines shall apply to the issuance of a noise permit. These guidelines are not all inclusive as other criteria may be established that is reasonable and prudent to protect the public or limit the anticipated detrimental impact of the events noise upon the community:

(1) All outdoor venues shall have a curfew of 10:00 p.m. Any event which exceeds this curfew shall be assessed the penalty identified in §111.99(C)(4) for each fifteen (15) minute period beyond this curfew.

(2) The Office of the City Clerk shall not grant a permit to conduct noise at level greater than 100dB(A) to be measured one hundred feet (100') from the noise source.

(3) Any sound board or mix position present at an event shall be placed at one hundred feet (100') from the noise source.

(4) The Office of the City Clerk may require any applicant to be monitored for sound levels to ensure compliance with this chapter. Monitoring may be conducted by a representative of the City or an independent third party using an appropriate sound level meter. In the event of third party monitoring, all expenses associated with the sound monitoring shall be assumed by the applicant.

(5) In granting a license, the Office of the City Clerk may impose additional conditions or stipulations it deems necessary and proper to preserve the intent of this chapter.

City of Manchester New Hampshire

In the year Two Thousand and Two

AN ORDINANCE

“Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations.

Page 5 of 7

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

(6) Should an application for a noise permit be denied, the applicant can appeal the decision to the Committee on Administration/Information Systems of the Board of Mayor and Aldermen.

§ 111.72 PERMIT FEES.

Each application for a noise permit shall include an application fee of two hundred dollars (\$200.00) cash, money order or bank check made payable to the City of Manchester.

§ 111.73 PROHIBITED CONDUCT.

The following conduct is prohibited:

(A) Provide any false or inaccurate information to any City board, committee, commission or any employee of the City of Manchester, in an attempt to deceive or otherwise avoid compliance with this ordinance.

(B) Hinder, obstruct, delay, resist, interfere, or attempt to interfere with any authorized persons while in the performance of their duties under this ordinance.

(C) Emit or cause to be emitted any noise which exceeds the established limits in §111.71(B)(2) of this chapter.

(D) Violate any subsection of §111.71 of this chapter.

(E) Conduct an event that involves the amplification of sound or speech above sixty (60) dBA for the purpose of presenting a musical selection, show, performance

City of Manchester New Hampshire

In the year Two Thousand and Two

AN ORDINANCE

“Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations.”

Page 6 of 7

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

or concert at an outdoor venue in the city of Manchester without obtaining a license from the Office of the City Clerk pursuant to § 111.71(A).

- II. Amend the Code of Ordinances by deleting language within §111.99: Penalty as stricken (-----) and inserting new language as bolded (**bold**). Portions of §111.99: Penalty that remain unchanged appear in regular type.

§ 111.99 PENALTY.

(A) Any person who shall fail to comply with any of the provisions of this chapter or who shall violate any of the provisions set forth herein, **unless a penalty is specified elsewhere**, shall be subject to the penalties as set forth in § 10.99 of this code of ordinances.

(B) (1) Any person who commits an act prohibited or made unlawful by §§ 111.40 through ~~111.55~~ **111.73** of this chapter or fails to perform any act required by such subchapter shall be guilty of a violation. Each act of violation, **or in the case of continuous violation**, every day upon which any such violation shall occur shall constitute a separate offense. In addition, if the court finds for the city, the city shall recover its costs of suit including reasonable experts' fees, attorney fees, and necessary investigative costs. Parties held responsible for violations of §§ 111.40 through ~~111.55~~ **111.73** shall include corporate officers, partners, or owners as identified on the business license application or as may be otherwise identified by the ~~Police Department~~ **City** as a result of any related investigation.

(2) The Police Department is hereby authorized to seize any amusement device located within the city in contravention of any of the provisions of §§ 111.40 through 111.55. Upon such seizure the Police Department shall notify the owner of the seized devices, or the person in whose place of business the amusement device was placed, of such seizure and the reason therefor. The Police Department shall hold any such seized devices for a period of not less than ten days from the date of the required notification to the owner or operator of the premises. During this period the owner or operator may redeem any such machine by correcting the violation of this division which led to such seizure. Any amusement devices which are so seized and which are not redeemed within the ten-day period described in this division (B)(2) shall become the property of the city. Costs for transportation and storage charges will be billed to the

City of Manchester New Hampshire

In the year Two Thousand and **TWO**

AN ORDINANCE

“Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations.”

Page 7 of 7

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

owner of any amusement devices seized and must be paid before the release of the devices from city storage. The city will be held harmless for any damage occurring during the act of confiscation, transportation, and storage of each device.

(C) Violations of § 111.73 Prohibited Conduct shall follow the penalty schedule below:

(1) FIRST OFFENSE:

The licensee or his representative shall be informed of the noise ordinance and corrective measures to achieve compliance. This shall constitute an official warning and should be accomplished in writing if possible.

(2) SECOND OFFENSE:

A citation shall be issued to the licensee or his representative in the amount of two hundred and fifty dollars (\$250.00).

(3) THIRD OFFENSE:

A citation shall be issued to the licensee or his representative in the amount of five hundred dollars (\$500.00).

(4) FOURTH AND SUBSEQUENT OFFENSES:

A citation shall be issued to the licensee or his representative in the amount of one thousand dollars (\$1000.00).

III. These ordinances shall take effect upon passage.

City of Manchester New Hampshire

In the year Two Thousand and Five

AN ORDINANCE

"Amending Chapter 115: Solicitations, Sales, Peddlers, and Fairs of the Code of Ordinances of the City of Manchester by inserting new definitions and application requirements."

Page 1 of 9

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

- I. Amend the Code of Ordinances by deleting language stricken (-----) and inserting new language in Chapter 115: Solicitations, Sales, Peddlers, and Fairs as bolded (**bold**). Sections of the following chapters that remain unchanged appear in regular type.

CHAPTER 115: SOLICITATIONS, SALES, PEDDLERS, AND FAIRS.

GENERAL PROVISIONS

§ 115.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CIVIC CENTER ZONE. The westerly side of Elm Street, on the sidewalk, from Pleasant Street to the Center of NH exit and the easterly side of Elm Street, on the sidewalk, from Central Street to Merrimack Street. The westerly side of the zone includes a 30-foot setback from the corner of Elm Street and the Center of NH exit, northerly, and a 90-foot setback from the corner of Elm Street and Pleasant Street, southerly. This prevents impairing driver vision (in accordance with § 8.22(E) of the Zoning Ordinance) as well as interfering with Manchester transit loading and unloading.

The easterly side of the zone also includes a 30-foot setback from the corner of Elm Street and Central Street, northerly, and a 90-foot setback from the corner of Elm Street and Merrimack Street, southerly. The Office of the City Clerk shall not issue more than a pre-determined number of licenses designated for the Civic Center Zone. The Office of the City Clerk may use discretion as to the total number of licenses issued for the Civic Center Zone should it be determined that this amount disrupts pedestrian traffic patterns, vehicular traffic flow, or reasonable peddler activity.

DISQUALIFYING CRIMINAL CONVICTION. Any felony convictions, any conviction involving harassment, violence, theft, fraud, loitering, prowling, or endangering the welfare of a child or incompetent.

FAIR. A show in which ten or more persons display merchandise, articles, services, or things for sale or solicit orders and as a separate transaction deliveries are made to purchasers, from a booth, stand, rack, showcase, bench, push-cart or a designated area.

City of Manchester New Hampshire

In the year Two Thousand and Five

AN ORDINANCE

"Amending Chapter 115: Solicitations, Sales, Peddlers, and Fairs of the Code of Ordinances of the City of Manchester by inserting new definitions and application requirements."

Page 2 of 9

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

ITINERANT MAGAZINE SALESMAN. Any person, whether as principal, agent, or employee, who engages in a temporary or transient business in this city of traveling from house to house soliciting orders for magazine subscriptions or renewals.

MOTOR VEHICLE. Any vehicle, used for displaying, storing, or transporting of articles offered for sale by a peddler, which is required to be licensed and registered by the State Department of Motor Vehicles.

PEDDLER. A person as defined in R.S.A. 320.1 and R.S.A. 321.1, except as may be excluded by § 110.08 of this title, and shall include any person, whether a resident of the city or not, traveling by foot, wagon, motor vehicle, or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying, or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, flowers, plants, garden truck, farm products or provisions, offering and exposing the same for sale from a wagon, stand, motor vehicle, railroad car, or other vehicle or conveyance, and includes one who while traveling from place to place solicits orders and as a separate transaction deliveries are made to purchasers. The word PEDDLER shall include one who travels from place to place offering to perform personal services for household repairs or improvements, or solicits or induces any person to sign any contracts relating to household repairs and improvements, including contracts for the replacement or installation of siding on any residence or building; or one who keeps a regular place of business, open during regular business hours at the same location, but who offers for sale or sells and delivers, personally or through his agents, at a place other than his regular place of business, goods, wares, or merchandise. The word PEDDLER shall include HAWKER, VENDOR, HUCKSTER, and ITINERANT VENDOR. The word PEDDLER shall not include those persons who are on residential premises at the prior invitation of the owner or legal occupant or direct sellers as defined by Sec. 3508 of the U.S. Internal Revenue Code.

PUBLIC ASSEMBLY BUILDINGS. As defined in the BOCA National International Building Code, 1987 2000, Article 3, §§ 302.1 through 302.6 §§ 303.1 (A-4) through 303.1 (A-5).

PUBLIC PROPERTY. Any city-owned or controlled property including but not limited to streets, sidewalks, municipal parking areas, and municipal parks.

STAND. Any table, showcase, bench, rack, pushcart, wagon, or any other wheeled vehicle or device which may be moved without the assistance of a motor vehicle and which is not required to be licensed and registered by the State Department of Motor Vehicles, used for displaying, storing, or transporting articles offered by sale by a peddler.

City of Manchester New Hampshire

In the year Two Thousand and Five

AN ORDINANCE

"Amending Chapter 115: Solicitations, Sales, Peddlers, and Fairs of the Code of Ordinances of the City of Manchester by inserting new definitions and application requirements."

Page 3 of 9

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

TRANSIENT or ITINERANT PHOTOGRAPHERS. All persons, whether as principals, agents, or employees, who engage in a temporary or transient business in this city, whether such persons conduct their business by traveling from house to house taking pictures in a house, or operate from a hotel room, store, or other place of business, or otherwise, and who perform any of the following acts of the photography business: solicit orders, take pictures, assist in the taking of pictures, show proofs, deliver pictures, make collections for pictures sold.

TRANSIENT OR ITINERANT MAGAZINE SALES.

§ 115.20 LICENSING REQUIREMENTS.

(A) License required. No person shall engage in the business of an itinerant magazine salesperson unless he shall be licensed to do so as provided by this section. The City Clerk may issue a temporary license for a transient or itinerant magazine salesperson, following the same procedure as for the issuance of all annual licenses.

(B) License application; issuance; transfer; display.

Each applicant for an itinerant magazine salesperson's license shall apply to the City Clerk on a form to be determined by the City Clerk.

(1) The application shall include the name and home address; the name and address of all organizations by which he is employed or receives commissions or compensation of any kind; **two recent passport photographs of the applicant, or photographs of such size as previously approved by the City Clerk; a complete certified criminal record of the applicant obtained from the Criminal Records Division, State Police, Department of Safety, State of New Hampshire, and/or from the appropriate out-of state agency or agencies if not a resident of New Hampshire for the five years preceding the application; and whether he has ever before applied for a license under this section.**

(2) Upon verification of identity, review of application by Police Department, and receipt of the proper fee the City Clerk may issue the license and forward the name of the licensee to the Chief of Police. The license shall not be transferable and must be ~~presented~~ **displayed while engaging in the business of an itinerant magazine salesperson.** ~~to any party being solicited for magazine orders or to any police officer upon request.~~

City of Manchester New Hampshire

In the year Two Thousand and Five

AN ORDINANCE

"Amending Chapter 115: Solicitations, Sales, Peddlers, and Fairs of the Code of Ordinances of the City of Manchester by inserting new definitions and application requirements."

Page 4 of 9

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

(C) Hours, behavior restricted. No person shall engage in the business of an itinerant magazine salesperson except between the hours of 9:00 a.m. and 8:00 p.m. No person shall make any solicitation in an oppressive manner.

(D) Standards for denial. In addition to the application requirements set forth in this section, a license to operate as an itinerant magazine salesperson shall be denied to the following persons:

(1) An applicant who has received a disqualifying criminal conviction or has been imprisoned at any time for a disqualifying criminal conviction during the five years preceding the application.

(2) An applicant who is required to register as a sexual offender or as an offender against children under R.S.A. 651-B:6.

(3) An applicant who is denied an itinerant magazine sales license under the standards of this section, or who has reason to believe that he/she may be denied an itinerant magazine sales license under these standards, may file a written request for a review of the application before the Committee on Administration. The Committee on Administration will approve or disapprove the fitness of the applicant for the license. The Committee on Administration may require the submission of qualifying evidence to make an assessment, including character references and/or evaluation by a qualified professional, and may set such conditions, review procedures, or monitoring activities as it deems appropriate as a condition of licensure.

(E) Revocation. Any licensee that engages in any loud argument, fight, or other disturbances; harassed, threatened or assaulted another person, intentionally damaged, destroyed or threatened to damage or destroy any property or Any person violating violates any other provisions of this section shall have such license revoked. Upon request of the Chief of Police the licensee shall surrender his license. Upon conviction of violations under this section, no license shall be issued to such person for a period of three years.

(F) Exemptions. This section shall not apply to persons involved in elementary and secondary schools conducting such solicitations under the direction and guidance of a local school or other charitable organization.

City of Manchester New Hampshire

In the year Two Thousand and Five

AN ORDINANCE

"Amending Chapter 115: Solicitations, Sales, Peddlers, and Fairs of the Code of Ordinances of the City of Manchester by inserting new definitions and application requirements."

Page 5 of 9

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

PEDDLERS.

§ 115.40 LICENSE REQUIRED; APPLICATION.

(A) It shall be unlawful for any person, firm, or corporation to engage in the business of a peddler within the city without first having secured a license therefor. The license shall be an annual license expiring on April 30 of each year. Each license issued pursuant to this subchapter shall be conspicuously displayed. The City Clerk may issue a temporary license for peddlers, following the same procedure as for the issuance of an annual license.

(B) Application for a peddler's license shall be made to the City Clerk upon a form to be determined by the City Clerk. The application shall include:

(1) The name, home and business address of the applicant, and the name and the address of the owner, if other than the applicant, of the business and of any stand or motor vehicle to be used in the operation of the business.

(2) Two recent passport photographs of the applicant, or photographs of such size as previously approved by the City Clerk.

(3) A complete certified criminal record of the applicant obtained from the Criminal Records Division, State Police, Department of Safety, State of New Hampshire, and/or from the appropriate out-of state agency or agencies if not a resident of New Hampshire for the five years preceding the application.

(4) A description of the type of food, beverage, merchandise, or service to be sold, and in the case of products of farm or orchard, whether produced or grown by the applicant.

(5) A description and photograph of any stand or motor vehicle to be used in the operation of the business, including the license and registration number of any motor vehicle used in the operation of the business.

(6) A license from the City Health Department for any peddler who will sell any food or beverages.

City of Manchester New Hampshire

In the year Two Thousand and Five

AN ORDINANCE

“Amending Chapter 115: Solicitations, Sales, Peddlers, and Fairs of the Code of Ordinances of the City of Manchester by inserting new definitions and application requirements.”

Page 6 of 9

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

(7) (a) A certificate of insurance that the applicant has been issued an insurance policy by an insurance company licensed to do business in the state, protecting the licensee and the city from all claims for damages to property and bodily injury, including death which may arise from operations under or in connection with the license. Such insurance shall provide combined primary and excess coverage which meet a \$500,000 minimum limit; such policy shall provide for automobile liability insurance for owned, nonowned and hire vehicles as applicable; and such policy shall provide that the policy shall not terminate or be cancelled prior to the expiration date except with 30 days' advance written notice to the city.

(b) Exceptions to certificates of insurance may be considered on a case by case basis by the City Clerk with consultation of the risk manager to modify guidelines to meet the exposures presented in a specific activity.

(8) A description of the proposed location of the business together with the written permission of the abutting landowner and/or tenant and a certificate from the building department that a location is consistent with the Zoning Ordinance. The abutter's written permission for use of a location shall be kept current and submitted at the beginning of each licensing year. If the location is in or adjacent to a public area with no private abutting landowner and/or tenant, an applicant must obtain written permission from the appropriate municipal department or public agency. Authorization to operate at that location may be subject to conditions requested by the municipal department or public agency at the time approval is granted or at any time during the licensing period. Peddlers who have been licensed during the licensing year immediately preceding an application for a specific location shall be given first consideration for licensure at that location provided all other requirements under this division are met and that the license is applied for prior to June 1 of the license year. After June 1, the City Clerk may issue a license for the location to the first applicant who requests that site and who meets the licensing requirements.

(9) Peddlers from motor vehicles shall describe, if less than the entire city, the general area in which the business will be operated.

(10) Hours of operation.

(11) Whether or not the applicant has previously held a peddler's license.

(12) Proof that the applicant holds a hawker, peddler, or itinerant vendor's license from the state where applicable.

City of Manchester New Hampshire

In the year Two Thousand and Five

AN ORDINANCE

"Amending Chapter 115: Solicitations, Sales, Peddlers, and Fairs of the Code of Ordinances of the City of Manchester by inserting new definitions and application requirements."

Page 7 of 9

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

(C) **Standards for denial.** In addition to the application requirements set forth in this section, a license to operate as a peddler shall be denied to the following persons:

(1) An applicant who has received a disqualifying criminal conviction or has been imprisoned at any time for a disqualifying criminal conviction during the five years preceding the application.

(2) An applicant who is required to register as a sexual offender or as an offender against children under R.S.A. 651-B:6.

(3) An applicant who is denied a peddler license under the standards of this section, or who has reason to believe that he/she may be denied a peddler license under these standards, may file a written request for a review of the application before the Committee on Administration. The Committee on Administration will approve or disapprove the fitness of the applicant for the license. The Committee on Administration may require the submission of qualifying evidence to make an assessment, including character references and/or evaluation by a qualified professional, and may set such conditions, review procedures, or monitoring activities as it deems appropriate as a condition of licensure.

§ 115.44 PROHIBITED CONDUCT.

A peddler shall not:

(A) Operate his business on any street, sidewalk, park, parkway or in any other public place unless his peddler's license specifies that peddling in such public place is permitted thereunder.

(B) Vend within 500 feet of the grounds of any elementary or secondary school between one-half hour prior to the start of the school and one-half hour after dismissal at the end of the school day.

(C) Vend within 1,000 feet of any hospital.

City of Manchester New Hampshire

In the year Two Thousand and^{Five}

AN ORDINANCE

"Amending Chapter 115: Solicitations, Sales, Peddlers, and Fairs of the Code of Ordinances of the City of Manchester by inserting new definitions and application requirements."

Page 8 of 9

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

- (D) Vend within 1,000 feet of the same street of any public assembly building while such building is in use unless his peddler's license specifies that peddling in such place is permitted thereunder.
- (E) Leave any motor vehicle or stand unattended.
- (F) Store, park, or leave any stand overnight on any street or sidewalk or park any motor vehicle other than in a lawful parking place, in conformance with city and state parking regulations.
- (G) Sell food or beverages for immediate consumption unless he has available for public use his own or a public litter receptacle which is available for his patron's use.
- (H) Leave any location without first picking up, removing, and disposing of all trash or refuse remaining from sales made by him.
- (I) Allow any items relating to the operation of the business to be placed anywhere other than in, on, or under the stand or motor vehicle.
- (J) Set up, maintain, or permit the use of any table, crate, carton, rack, sign, or any other device to increase the selling or display capacity of his stand or motor vehicle, where such items have not been described on his application.
- (K) Solicit or conduct business with persons in motor vehicles.
- (L) Sell any other than that which he is licensed to vend.
- (M) Sound or permit the sounding of any device which produces a loud and raucous noise, or use or operate any loud speaker, public address system, radio sound amplifier or similar device to attract the attention of the public.
- (N) Operate without the insurance coverage specified in this subchapter.
- (O) Sell food or beverages without a valid and current Health Department permit to operate a food establishment.
- (P) Vend without a fire extinguisher of a type approved by the Fire Chief or his designee if the vendor utilizes heat generation equipment.
- (Q) Operate at any time other than the hours of 9:00 a.m. to 8:00 p.m. unless part of a special permitted activity or the license so specifies.

City of Manchester New Hampshire

In the year Two Thousand and Five

AN ORDINANCE

“Amending Chapter 115: Solicitations, Sales, Peddlers, and Fairs of the Code of Ordinances of the City of Manchester by inserting new definitions and application requirements.”

Page 9 of 9

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

(R) Vend within 50 feet of any building or storefront housing a business selling the same or similar food, merchandise, or product except during special one-day events or while such business is closed.

(S) Vend in the area around the Civic Center bounded by Pine Street from the corners of Manchester Street and Valley Street, Valley Street from the corners of Pine Street and Elm Street, Elm Street from the corners of Valley Street and West Auburn Street, West Auburn Street from the corners of Elm Street and Canal Street, Canal Street from the corners of West Auburn Street and Market Street, Market Street from the corners of Canal Street and Franklin Street, Franklin Street from the corners of Market Street and West Merrimack Street, West Merrimack Street from the corners of Franklin Street and Elm Street, Elm Street from the corners of West Merrimack Street and Manchester Street, Manchester Street from the corners of Elm Street and Pine Street, unless the applicant proposes to vend items adjacent to a business they currently own within this area, part of a special permitted activity or the license so specifies.

(T) Engage in any loud argument, fight, or other disturbances; harassed, threatened or assaulted another person, intentionally damaged, destroyed or threatened to damage or destroy any property.

(U) Operate without properly displaying peddlers license.

City of Manchester New Hampshire

In the year Two Thousand and Five

AN ORDINANCE

“Authorizing the Mayor to Dispose of Certain Tax Deeded Property
Known as West Haven Road, Map 0922/Lot 0039-A.”

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester,
as follows:

- I. That in accordance with New Hampshire RSA 80:80, the Mayor is authorized to convey a parcel of tax-deeded property known as West Haven Road, City Map 0922/Lot0039-A in the City of Manchester to Dennis and Diane Traynor of 139 Mayflower Drive at a cost of Three Thousand Dollars (\$3,000.00).

Said property was acquired by Tax Collector's Deed dated January 16, 1991 and recorded in the Hillsborough County Registry of Deeds on January 21, 1991, Book 5234, Page 1626. The Board of Assessors concurs that the above noted disposition reflects a reasonable value.

The Board finds just cause to sell such property to the abutter as said parcel is considered residual/unbuildable, serves no practical public purpose other than to the abutters, is presently a liability to the City as a waste disposal site, and sale of property to the abutters shall place the property on the tax roles.

- II. This Ordinance shall remain in effect for a period of two years (2) from the date of passage.